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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CHRISTOPHER JULIAN, MARK PACANA, PAUL
FISKRATTI, and WAYNE LEWALD, on Behalf of
Themselves and All Others Similarly Situated,

Plaintiffs,

vs.

TTE TECHNOLOGY, INC., dba TCL NORTH
AMERICA,

Defendant.

Case No. 3:20-CV-02857-EMC

**PLAINTIFFS' ADMINISTRATIVE MOTION
FOR LEAVE TO FILE SUR-REPLY RE:
DEFENDANT'S MOTION TO DISMISS THE
SECOND AMENDED CLASS ACTION
COMPLAINT.**

Judge:	Hon. Edward M. Chen
Crtrm:	5—17 th Floor
Hearing Date:	February 25, 2021
Time:	1:30 PM

Pursuant to Civil Local Rule 7-11, Plaintiffs respectfully request that the Court grant Plaintiffs leave to file a sur-reply in response to Defendant TTE Technology, Inc.'s ("TTE") reply brief regarding its Motion to Dismiss Plaintiffs' Second Amended Class Action Complaint (the "Motion"). Plaintiffs' proposed sur-reply addresses new evidence that was not available to Plaintiffs at the time they filed their opposition to the Motion. *Therasense, Inc. v. Becton, Dickinson and Co.*, 560 F. Supp. 2d 835, 840 n.3 (N.D.Cal. 2008) (granting "motion for leave to file sur-reply and additional new evidence in support of its opposition"); *FTC – Forward Threat Control, LLC v. Dominion Harbor Enters., LLC*, Case No. 5:19-cv-06590-EJD, 2020 U.S. Dist. LEXIS 170694 (N.D. Cal. Sept. 16, 2020) (granting motion for leave to file a sur-reply in opposition to a motion to dismiss regarding discovery not produced until after briefing on the motion was completed). A copy of Plaintiffs' proposed sur-reply is attached hereto as **Attachment 1**.

Plaintiffs recognize that the hearing on TTE's Motion, scheduled for Thursday, February 25, is before the four-day response time provided by Civil Local Rule 7-11. However, in preparing for oral argument on TTE's Motion, Plaintiffs noted the inconsistencies between TTE's briefing and its discovery responses, and are diligently bringing those to the Court's attention. Plaintiffs also note that per Civil Local Rule 7-11(c), this motion will be "deemed submitted for immediate determination without hearing on the day after the opposition is due," and therefore respectfully request the Court take it into consideration in deciding TTE's Motion.

Dated: February 23, 2020

s/Alex R. Straus

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